THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 3251 of 2006

Dated: 19.10.2006

Between:

D.Srinivas **.... PETITIONER**

AND

The Hon'ble Industrial Tribunal-cum-Labour Court,
Warangal,
Rep by its Presiding Officer, and another

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 3251 of 2006

Order:

The petitioner is working as a conductor in the respondent-APSRTC. Disciplinary proceedings were initiated against him and a charge sheet dated 22.11.1991 was issued alleging that certain cash and ticket irregularities. The petitioner submitted his explanation dated 29.11.1991. However, having not satisfied with the explanation offered by the petitioner, an enquiry was ordered. The enquiry officer conducted an enquiry and submitted his report dated 20.1.1992 holding the charges as proved. The third respondent without furnishing copy of the enquiry report and even without issuing a show cause notice, passed final orders dated 10.2.1992 imposing the punishment of deferment of annual increments for a period of two years with cumulative effect apart from treating the suspension period as not on duty. Aggrieved by the same, the petitioner preferred an appeal before the appellate authority, which was rejected. After rejection of the appeal, the petitioner raised an industrial dispute and the same was registered as I.D. No. 135 of 1996. The labour Court passed an award dated 1.2.1997 dismissing the petition for default. Hence, the present writ petition.

Learned counsel for the petitioner submits that respondent No.3, without furnishing copy of enquiry report and without affording any opportunity of hearing to the petitioner, straight away issued the impugned proceedings imposing punishment. It is further submitted that the notices issued by the labour Court were not received by the petitioner, inasmuch as he has furnished the address of the Organising

Secretary, who was later on removed from the service and the labour Court dismissed the petition for default by award dated 1.2.1997. He further submitted that the issue raised in this writ petition is squarely covered by the orders of this Court in W.P. No. 18299 of 2005, dated 05.09.2005.

Learned Standing Counsel for the respondents-Corporation admitted the same. He, however, opposed the relief contending that after considering the entire material on record, the impugned order was passed, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

The issue raised in the present writ petition is squarely covered by the orders of this Court in W.P. 18299 of 2005, dated 05.09.2005. The operative portion of the said order, reads as under:

> *"Strictly speaking, the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly six years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of increment shall be treated, as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, upto the date of this order, on account of the modification of the punishment.*
>
> *The writ petition is accordingly disposed of. There shall be no order as to costs."*

Since, the issue raised in the writ petition is with regard to imposition of punishment without issuing a show cause notice, which is squarely covered by the orders of this Court in W.P. No. 18299 of 2005, dated 05.09.2005, instead of remanding the matter to Labour Court by setting aside the award dated 1.2.1997 whereby the petition was dismissed for default, I deem it appropriate to dispose of the writ petition with the following direction.

The impugned order dated 10.2.1992, passed by respondent No.3, imposing punishment of stoppage of annual increment for a period of two years with cumulative effect, is modified to that of stoppage of annual increment without cumulative effect. However, the petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 19.10.2006
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THE HON'BLE SRI JUSTICE N.V. RAMANA

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